

AFFIDAVIT OF SERVICE OF PROCESS BY PRIVATE PERSON

H&C FILE NUMBER:

573209/496

UNITED STATES BANKRUPTCY COURT
COUNTY, STATE OF ARIZONA
B97-14228PHXGBN CAUSE NO.

State Bar No.: 016431

IN RE: CHARLES THOMAS BROWN D/B/A TOM BROWN PREFERRED TRUST COMPANY,
DEBTOR
VS.

STATE OF ARIZONA ss.
County of Maricopa

The undersigned, being sworn, states: That I am over the age of 18 and not a party to this action.

On 01/14/00, I received the Subpoena, Notice of Deposition from RYLEY, CARLOCK & APPLEWHITE, Tmc 38081.1 and in each instance I personally served a copy of each document listed above on those named below in the manner and at the time and place shown, that all services, except where noted were made within Maricopa County, Arizona.

Upon AUBREY FRANKLIN personally, on 01/17/00 at 4:16pm at 7043 E. MCDONALD, SCOTTSDALE, AZ 85253 . Witness & Mileage Fee Tendered \$.00

Subscribed and sworn to before me
01/18/00 DELIA RUELAS

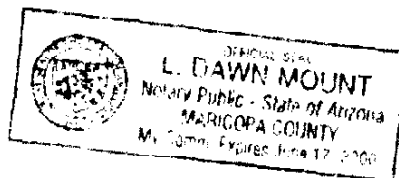
Affiant

My commission expires: 06/17/00

/S/ L. Dawn Mount

Notary Public

\$ 10.00 Service Of Proc
\$ 22.50 Mileage
\$ 22.50 Mileage
\$ 5.00 Affidavit/Notar
\$ 60.00 TOTAL



HAWKINS & CAMPBELL INCORPORATED
800 NORTH 4TH STREET
PHOENIX, ARIZONA 85004
TELEPHONE: (602) 452-1800

1 **RYLEY, CARLOCK & APPLEWHITE**

2 Suite 2700

3 101 North First Avenue

4 Phoenix, Arizona 85003-1973

5 Telephone (602) 258-7701

6 John J. Fries - 007182

7 Thomas M. Corea - 016431

8 Sam S. Tiffany - 018662

9 Attorneys For Chapter 7 Trustee, Maureen Gaughan

10 **IN THE UNITED STATES BANKRUPTCY COURT**

11 **FOR THE DISTRICT OF ARIZONA**

12 In re:

13 **CHARLES THOMAS BROWN d/b/a TOM**
14 **BROWN PREFERRED TRUST COMPANY,**

15 Debtor.

16 **MAUREEN GAUGHAN, Chapter 7 Trustee**

17 Plaintiff,

18 v.

19 **ANN AKAMINE, et al.,**

20 Defendants.

Proceedings Under Chapter 7

No. B97-14228 PHX GBN

Adv. 99-00746

CIVIL SUBPOENA

21 THE UNITED STATES OF AMERICA TO:

22 **Aubrey Franklin**
23 **7043 E. McDonald**
24 **Scottsdale, AZ 85253**

25 YOU ARE HEREBY COMMANDED to appear at the time and place specified below:

26 BEFORE WHOM THE APPEARANCE
IS TO BE MADE:

Issuing Officer
Ryley, Carlock & Applewhite

DATE AND TIME OF APPEARANCE:

Tuesday, January 18, 2000 at 4:30 p.m.

1 PLACE OF APPEARANCE:

Law Offices of Ryley, Carlock & Applewhite
101 North First Avenue
Suite 2700
Phoenix, Arizona 85003

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3
4 Pursuant to FED.R.CIV.P. 45, as adopted by Bankruptcy Rule 9016, you are hereby further informed
5 as follows:

6 **PROTECTION OF PERSONS SUBJECT TO SUBPOENAS**

7 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take
8 reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court
9 on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney
10 in breach of this duty an appropriate sanction, which may include, but it not limited to, lost earnings and a
11 reasonable attorney's fee.

12 (2)(A) A person commanded to produce and permit inspection and copying of designated books,
13 papers, documents or tangible things, or inspection of premises need not appear in person at the place of
14 production or inspection unless commanded to appear for deposition, hearing or trial.

15 (2)(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit
16 inspection and copying may, within 14 days after service of the subpoena or before the time specified for
17 compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the
18 subpoena written objection to inspection or copying of any or all of the designated materials or the premises.
19 If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials
20 or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If
21 objection has been made, the party serving the subpoena may, upon notice to the person commanded
22 to produce, move at any time for an order to compel the production. Such an order to compel production
23 shall protect any person who is not a party or an officer of a party from significant expense resulting from
24 the inspection and copying commanded.

25 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the
26 subpoena if it

- 1 (i) fails to allow reasonable time for compliance;
- 2 (ii) requires a person who is not a party or an officer of a party to travel to a place more
- 3 than 100 miles from the place where that person resides, is employed or regularly transacts business in
- 4 person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order
- 5 to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- 6 (iii) requires disclosure of privileged or other protected matter and no exception or waiver
- 7 applies, or
- 8 (iv) subjects a person to undue burden.
- 9 (B) If a subpoena:
- 10 (i) requires disclosure of a trade secret or other confidential research, development, or
- 11 commercial information, or
- 12 (ii) requires disclosure of an unretained expert's opinion or information not describing
- 13 specific events or occurrences in dispute and resulting from the expert's study made not at the request of any
- 14 party, or
- 15 (iii) requires a person who is not a party or an officer of a party to incur substantial expense
- 16 to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the
- 17 subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a
- 18 substantial need for the testimony or material that cannot be otherwise met without undue hardship and
- 19 assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may
- 20 order appearance or production only upon specific conditions.

21 DUTIES IN RESPONDING TO SUBPOENA

22 When information subject to a subpoena is withheld on a claim that it is privileged or subject

23 to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a

24 description of the nature of the documents, communications, or things not produced that is sufficient to

25 enable the demanding party to contest the claim.

26 ...

1 **VIOLATION PUNISHABLE BY CONTEMPT**

2 Failure by any persons without adequate excuse to obey this subpoena may be deemed a
3 contempt of the United States District Court for the District of Arizona.

4 DATED this 14th day of January, 2000.

5 **RYLEY, CARLOCK & APPLEWHITE, P.A.**

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8 John J. Fries
Thomas M. Corea
9 Sam S. Tiffany
10 101 North First Avenue, Suite 2700
11 Phoenix, Arizona 85003-1973
12 Attorneys for Chapter 7 Trustee
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